

ESTTA Tracking number: **ESTTA110401**

Filing date: **11/17/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

| | |
|---------------------------------------|---|
| Name | PDB Sports, Ltd. d/b/a Denver Broncos |
| Granted to Date of previous extension | 11/19/2006 |
| Address | 13655 Broncos Parkway Englewood, CO 80112 UNITED STATES |

| | |
|---------------------------------------|--|
| Name | NFL Properties LLC |
| Granted to Date of previous extension | 11/19/2006 |
| Address | 280 Park Avenue New York, NY 10017 UNITED STATES |

| | |
|----------------------|---|
| Attorney information | Andrea J. Chiller Quinn Emanuel Urquhart Oliver & Hedges LLP 51 Madison Avenue New York, NY 10010 UNITED STATES andreachiller@quinnemanuel.com, claudiabogdanos@quinnemanuel.com Phone:(212) 849-7000 |
|----------------------|---|

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 78573364 | Publication date | 05/23/2006 |
| Opposition Filing Date | 11/17/2006 | Opposition Period Ends | 11/19/2006 |
| Applicant | Skidmore College 815 North Broadway Saratoga Springs, NY 12866 UNITED STATES | | |

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Clothing for men, women and children, namely, t-shirts, golf shirts, polo shirts, shorts, sweatshirts, sweat pants, pants, sweaters, jackets, ponchos, rain jackets, track suits, underwear, socks, belts, hats, caps; cloth bibs, sleepers and rompers for infants

| | |
|---------------------|----------|
| Related Proceedings | 91173665 |
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|-------------|--|
| Attachments | 364 opp.pdf (7 pages)(115475 bytes) |
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|-----------|---------------------|
| Signature | /Andrea J. Chiller/ |
| Name | Andrea J. Chiller |
| Date | 11/17/2006 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/573,364
Published in the Official Gazette on May 23, 2006



PDB SPORTS, LTD. d/b/a DENVER
BRONCOS and NFL PROPERTIES LLC,

Opposers,

-against-

SKIDMORE COLLEGE,

Applicant.


Opposition No. _____

NOTICE OF OPPOSITION

TO THE COMMISSIONER FOR TRADEMARKS:

Opposers PDB Sports, Ltd. d/b/a Denver Broncos and NFL Properties LLC



believe they will be damaged by registration of the  designation (the "SKIDMORE THOROUGHBREDS Design") as shown in the above-identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposers allege that:

1. Opposer PDB Sports, Ltd. d/b/a Denver Broncos (the “Broncos” or the “Broncos Club”), a limited partnership organized and existing under the laws of Arizona with its principal place of business at 13655 Broncos Parkway, Englewood, Colorado 80112, owns and operates a professional football team, providing entertainment services to the public in the form of competitive professional football games. The Broncos Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”), a limited liability company organized and existing under the laws of Delaware with its principal place of business at 280 Park Avenue, New York, New York 10017, has been authorized by the NFL and the Broncos Club to use their respective trademarks for commercial purposes, to promote the NFL and its Member Clubs and to protect their trademarks.

3. For many years and long before February 23, 2005, the filing date of the intent to use application herein opposed, Opposers have used the mark



and variations thereof (the “BRONCOS Horse-Head Design Marks”) in connection with their business of organizing, conducting, and promoting the Broncos Club.

4. For many years and long before February 23, 2005, the filing date of the intent to use application herein opposed, Opposers and their authorized business partners,

sponsors, and/or licensees have used the BRONCOS Horse-Head Design Marks on or in connection with the sale of a wide variety of goods and services.

5. Opposers actively seek to identify and stop perceived infringers of the BRONCOS Horse-Head Design Marks.

6. During their long, widespread, and continuous use of the BRONCOS Horse-Head Design Marks, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services bearing the BRONCOS Horse-Head Design Marks.

7. Opposers and their licensees and sponsors have sold, and offered for sale, a variety of goods and services bearing the BRONCOS Horse-Head Design Marks in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.




8. Opposers and their licensees and sponsors have sold, and offered for sale, a variety of goods and services bearing the BRONCOS Horse-Head Design Marks in numerous channels of trade.


9. The on-field success of the Broncos Club, along with the marketing efforts of the NFL, has led to nationwide coverage of the Broncos and to many thousands of references to the BRONCOS Horse-Head Design Marks in the print, broadcast, and Internet media. The widespread use by the media of the BRONCOS Horse-Head Design Marks when referring to the Broncos, for many years and long before February 23, 2005, the filing date of the intent to use application herein opposed, has contributed to the strong public association of the BRONCOS Horse-Head Design Marks with the Broncos Club. Such use by the media inures exclusively to the benefit of Opposers.

10. Opposers' widespread use of the BRONCOS Horse-Head Design Marks on a variety of goods and services, Opposers' extensive advertising and publicity of such goods and services, and the use by the media of the BRONCOS Horse-Head Design Marks when referring to the Broncos Club have contributed to the powerful consumer association between the BRONCOS Horse-Head Design Marks and Opposers and have made the BRONCOS Horse-Head Design Marks famous.

11. The BRONCOS Horse-Head Design Marks have a high degree of distinctiveness due to the duration and extent of Opposers' use, advertising, and publicity of the BRONCOS Horse-Head Design Marks.

12. In addition to Opposers' common law rights in the BRONCOS Horse-Head Design Marks, the Broncos own, inter alia, the following federal trademark registrations:

| Registration Number | Mark | International Class | Date of First Use |
|---------------------|---|---------------------|-------------------|
| 2,175,702 |  | 16 | 02/04/97 |
| 2,177,559 |  | 28 | 03/97 |
| 2,177,558 |  | 41 | 02/04/97 |

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|-----------|---|----|-------|
| 2,177,555 |  | 25 | 02/97 |
|-----------|---|----|-------|

All of the above-listed registrations have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

13. By the application herein opposed, Applicant seeks to register its SKIDMORE THOROUGHBREDS Design in International Class 25 for “Clothing for men, women and children, namely, t-shirts, golf shirts, polo shirts, shorts, sweatshirts, sweat pants, pants, sweaters, jackets, ponchos, rain jackets, track suits, underwear, socks, belts, hats, caps; cloth bibs, sleepers and rompers for infants.”

14. The goods for which Applicant seeks registration are similar to goods in connection with which the BRONCOS Horse-Head Design Marks have been and are in use.

15. Applicant’s intended use of the SKIDMORE THOROUGHBREDS Design would commence many years after Opposers started using the BRONCOS Horse-Head Design Marks, and after these marks had become famous.

16. Opposers will be damaged by the registration sought by Applicant, because such registration will support and assist Applicant in the confusing and misleading use of the designation sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers.

17. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that the SKIDMORE THOROUGHBREDS Design so resembles the BRONCOS Horse-Head Design Marks, used consistently by Opposers in the United States, as to be likely, when used on or in connection with the goods identified in the

Application, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposers and to the public.

18. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of the SKIDMORE THOROUGHBREDS Design will falsely suggest a connection between Applicant and Opposers named herein, to the damage of Opposers.

19. Registration should be refused pursuant to Sections 2(f) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1052(f) and 1125(c), on the grounds that Opposers will be damaged by the registration sought by Applicant, because the registration will dilute the distinctive and famous quality of the BRONCOS Horse-Head Design Marks.

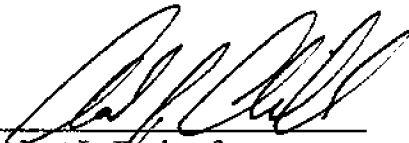
20. WHEREFORE, Opposers believe they will be damaged by the registration of Applicant's SKIDMORE THOROUGHBREDS Design for the goods identified in Application Serial Number 78/573,364 and respectfully request that the opposition be sustained and registration of said designation be denied.

Pursuant to 37 C.F.R. §2.6(a)(17), Opposers respectfully request that the \$600.00 statutory filing fee and any additional amount be charged to Deposit Account No. 50-3778.

All communication should be addressed to Opposers' counsel, Quinn Emanuel Urquhart Oliver & Hedges, LLP, at the below stated address.

Dated: New York, New York
November 17, 2006

Respectfully submitted,
Quinn Emanuel Urquhart Oliver & Hedges, LLP

By: 

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